

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**A.T., Appellant**

**and**

**U.S. POSTAL SERVICE, POST OFFICE,  
Bedford Park, IL, Employer**

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**Docket No. 16-0447  
Issued: April 25, 2016**

*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

CHRISTOPHER J. GODFREY, Chief Judge  
COLLEEN DUFFY KIKO, Judge  
ALEC J. KOROMILAS, Alternate Judge

**JURISDICTION**

On January 11, 2016 appellant filed a timely appeal of a July 20, 2015 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c)(1) and 501.3, the Board has jurisdiction to consider the merits of the case.

**ISSUE**

The issue is whether appellant has met her burden of proof to establish an occupational disease due to employment factors.

**FACTUAL HISTORY**

On November 19, 2014 appellant, then a 48-year-old distribution clerk, filed an occupational disease claim (Form CA-2) alleging that she developed bilateral knee pain due to standing on concrete flooring for eight hours a day. She described her job duties since

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

April 1997 as throwing parcels into containers and keying mail. Appellant indicated that while keying mail she sometimes put more pressure on one leg while working the foot pedals. She also noted that she was required to walk from one end of a rotary to another. Appellant alleged that she stood and walked on a concrete floor for eight hours a day. She developed knee pain beginning November 3, 2014.

In a report dated November 17, 2014, Dr. Anatoly Rozman, a Board-certified physiatrist, indicated that he first examined appellant on November 17, 2014 due to severe knee pain. He described her employment duties of standing and placing pressure on the left knee. Dr. Rozman diagnosed bilateral knee degenerative osteoarthritis. He opined that there was a causal relationship between appellant's condition and her occupational risk factors including kneeling and squatting. Dr. Rozman completed a form report (Form CA-17) on November 26, 2014 and diagnosed bilateral knee osteoarthritis. He opined that this condition was caused or aggravated by appellant's employment activities of walking and standing.

By decision dated January 20, 2015, OWCP denied appellant's occupational disease claim finding that she had not consistently identified work factors. It noted that she attributed her condition to walking and standing on concrete, while Dr. Rozman described duties of kneeling and squatting.

Appellant requested a review of the written record from OWCP's Branch of Hearings and Review on February 3, 2015. She submitted an x-ray dated November 3, 2014 which demonstrated bilateral patellofemoral and medial femorotibial degeneration with joint space narrowing and marginal spur formation.

In a report dated February 10, 2015, Dr. Sergey M. Kachar, an osteopath, noted appellant's increasing knee pain worse with work. He diagnosed bilateral knee patellofemoral syndrome left greater than the right as well as mild bilateral knee degenerative joint disease. Dr. Kachar provided knee braces.

By decision dated July 20, 2015, the OWCP hearing representative found that appellant failed to submit the necessary rationalized medical opinion evidence to establish a causal relationship between her diagnosed conditions and her implicated job duties.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden to establish the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of FECA, that the claim was filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.<sup>3</sup>

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<sup>2</sup> *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

In order to determine whether an employee actually sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident which is alleged to have occurred.<sup>4</sup> The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.

To establish a causal relationship between the condition, as well as any attendant disability claimed and the employment event or incident, the employee must submit rationalized medical opinion evidence supporting such a causal relationship.<sup>5</sup> The opinion of the physician must be based on a complete factual and medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant. This medical opinion must include an accurate history of the employee's employment injury and must explain how the condition is related to the injury. The weight of medical evidence is determined by its reliability, its probative value, its convincing quality, the care of analysis manifested, and the medical rationale expressed in support of the physician's opinion.<sup>6</sup>

### ANALYSIS

The Board finds that appellant has not submitted the necessary medical opinion evidence to establish a causal relationship between her diagnosed bilateral knee conditions and her implicated employment duties of standing and walking on concrete floors for eight hours a day.

In support of her claim, appellant submitted medical reports from Drs. Rozman and Kachar. Both physicians diagnosed bilateral knee degenerative joint disease and patella-femoral syndrome. While Dr. Rozman opined that appellant's condition was due to her employment, he implicated different employment duties than those proffered by appellant. He attributed appellant's knee condition to kneeling and squatting. Appellant has not asserted that she was required to kneel or squat as part of her job duties. While Dr. Rozman described walking and standing in his form report as contributing to appellant's condition, this report is not sufficient to meet appellant's burden of proof given the variation with Dr. Rozman's November 17, 2014 narrative report. Dr. Kachar did not provide any detailed opinion, merely attributing appellant's condition to her work without referencing specific job duties. As the medical evidence in the record does not provide a clear, detailed, and uncontroverted opinion regard the causal relationship between appellant's diagnosed bilateral knee condition and her implicated employment duties, appellant has failed to meet her burden of proof to establish an occupational disease claim.

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> *See* 20 C.F.R. § 10.110(a); *John M. Tornello*, 35 ECAB 234 (1983).

<sup>6</sup> *James Mack*, 43 ECAB 321 (1991).

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

**CONCLUSION**

The Board finds that appellant has not submitted the necessary detailed and specific medical opinion evidence to meet her burden of proof to establish an occupational disease due to her implicated federal job duties.

**ORDER**

**IT IS HEREBY ORDERED THAT** July 20, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 25, 2016  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Alec J. Koromilas, Alternate Judge  
Employees' Compensation Appeals Board